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| Rebecca R. Ginn | |

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
David Becker et al.

Group Art Unit: 1763

Serial No.: 09/923,058

Examiner: George A. Goudreau

Filed: August 6, 2001

Atty. Dkt. No.: 102-0072US-4

For: METHODS FOR ENHANCING SILICON
DIOXIDE TO SILICON NITRIDE
SELECTIVITY (AS PREVIOUSLY
AMENDED)

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PRIORITY CLAIM
PURSUANT TO 37 C.F.R. § 1.78(A)(3)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Office of Petitions

Dear Sir:

The instant '058 application, filed August 6, 2001, is a continuing application which claims priority back to an original parent application filed June 15, 1992 through a "string" of applications which are summarized in the following chart:

10/15/2004 FFANAIA2 00000031 501922 09923058
01 FC:1454 1370.00 DA

Adjustment date: 11/24/2004
09/15/2004 FFANAIA2 00000031 501922 09923058
01 FC:1454 1370.00 DA

| <i>Serial #</i> | <i>Filing Date</i> | <i>Relation to Earlier</i> | <i>Issue #</i> | <i>Issue Date</i> |
|-----------------|--------------------|------------------------------|----------------|-------------------|
| 07/898,505 | 15-Jun-92 | | 5,286,344 | 15-Feb-94 |
| 08/152,755 | 15-Nov-93 | Continuation-in-part of '505 | 5,880,036 | 9-Mar-99 |
| 08/905,891 | 4-Aug-97 | Continuation of '755 | 6,015,760 | 18-Jan-00 |
| 09/344,277 | 30-Jun-99 | Continuation of '891 | 6,287,978 | 11-Sep-01 |
| 09/923,058 | 06-Aug-01 | Continuation of '277 | | |

When filing the instant '058 application, Applicant filed a copy of the preceding parent application (the '277 application) as it was earlier filed. That application contained in its first paragraph a priority claim to all earlier applications (see attached, Exhibit A), i.e., the '891, '755 and '505 applications.

This meant however that the '058 application as filed (i.e., the '277 application as filed) lacked recitation of a priority claim to the '277 application itself. However, a claim of priority to the '277 application was made in the filing papers that accompanied the filing of the '058 application, as well as to all earlier applications in the continuing string (see attached, Exhibit B). Accordingly, the USPTO recognized Applicant's claim of priority to all earlier applications (i.e., the '277, '891, '755 and '505 applications) in the filing receipt that accompanied the instant '058 application (see attached, Exhibit C).

Applicant later amended the specification of the '058 application on January 17, 2002 by preliminary amendment to add to the specification the claim to the '277 application that was missing in the application as it was filed (see attached, Exhibit D) to specifically put the full priority "string" into the text of the '085 application. However, Applicant has just appreciated that this amendment to the specification was apparently made too late in accordance with 37 C.F.R. § 1.78(a)(2)(ii), which requires (as pertinent here) that the specification needed to be amended within four months of the filing date of

the '085 application (i.e., within four months of August 6, 2001). Essentially, Applicant's amendment to the '085 specification to add reference to the '277 application was apparently made several weeks too late.

Applicant therefore believes that it is prudent to petition under 37 C.F.R. § 1.78(a)(3) to have the priority claim recognized as unintentionally delayed, despite the fact that the full extent of Applicant's claim to priority was made (although apparently not in accordance with the strictures of Rule 78(a)), and that the USPTO has already recognized the full extent of Applicant's priority claim in the '085 application's filing receipt.

Therefore, in accordance with 37 C.F.R. § 1.78(a)(3), Applicant must:

(i) Make a reference to the correct priority claim as required by 37 C.F.R. § 1.78(a)(2). This is being addressed through an amendment to the specification filed herewith¹;

(ii) Pay the surcharge of 37 C.F.R. § 1.17(t) of \$1370.00. *The USPTO is authorized to deduct this fee, and any other necessary fees stemming from the papers filed herewith, from Deposit Account No. 501922, referencing attorney docket 102-0072US-4; and*

(iii) Attest to the delay in filing the correct priority claim, to which Applicant states the following: *The entire delay between the date the proper priority claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date this priority claim was filed (herewith) was unintentional.*

¹ Applicant is not entirely sure if submission of a new amendment is necessary, because, as noted above, Applicant has already added the correct and full priority claim to the specification of the '058 application by a preliminary amendment filed on January 17, 2002. However, this amendment to the specification is submitted again herewith as a precaution.

* * * * *

Applicant assumes that this is all that is required to effectuate its corrected priority claim, and would appreciate acknowledgement that this corrected priority claim has been accepted and that this petition has been granted. Applicant further requests that any patent issuing from the instant application contain the correct cross-reference to the applications to which priority is claimed on the front of the patent. Finally, while a corrected priority claim would normally warrant the issuance of an updated filing receipt, because here the filing receipt already indicates the full extent of the priority claim, Applicant is unsure if the issuance of a new filing receipt is necessary, and trusts that the Office of Petitions will do whatever is appropriate in this regard under the circumstances.

Please feel free to contact the undersigned with any questions.

Respectfully submitted,

10-13-04
Date

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